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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE:

**FRANK GIOSA and
KAREN B. GIOSA**

Debtor(s)

:
: **Case No.: 05-33296GMB**
:
: **Chapter 13**
:
: **Hearing Date: 10/3/2005 @ 10AM**
:
: **Oral Argument Requested**

**CERTIFICATION OF COUNSEL IN RESPONSE
TO OPPOSITION OF CHAPTER 7 TRUSTEE
TO CASE CONVERSION**

Layne S. Gordon, hereby certifies as follows:

1. I am the attorney for debtor in the above referenced matter, and, as such have full and complete knowledge of the facts contained herein.
2. The debtors, through this office, filed a Motion to Convert their Case to Chapter 13 on September 7, 2005. Mr. Hargrave, the Chapter 7 Trustee has objected to the conversion.
3. Mr. Hargrave, self-servingly, indicates that his investigation reveals that the debtors' residence located at 13 Royalty Lane, Laurel Springs, NJ has a fair market value in excess of the \$240,000.00 as provided on the debtors' Schedule A.
4. After conversion, the debtors shall provide to the Chapter 13 Trustee, appropriate indicia of valuation and provide a dividend to unsecured creditors pursuant to said value.
5. Mr. Hargrave further insists that a condition of the granting of the debtors' Motion to Convert be that the debtors demonstrate feasibility. However, Mr. Hargrave fails to provide legal support for requiring feasibility as a condition of conversion. Mr. Hargrave must be aware of debtors'

right to convert from a Chapter 7 to a Chapter 13. Feasibility is a condition of confirmation, not conversion.

6. Therefore, the debtors Motion to Convert to Chapter 13 should not be denied based upon Mr. Hargrave's objection. This case should be allowed to be converted to Chapter 13 and then be subject to the requirements of the Chapter 13 Trustee.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false I am subject to punishment.

Dated: September 28, 2005

/s/ Layne S. Gordon
LAYNE S. GORDON